

REMARKS

The following claims are pending in the application: 1 – 21, 46 – 72, and 88 – 91

The following claims have been amended: 1 and 46

The following claims have been deleted:

The following claims have been added:

As a result of the foregoing Amendment, the following claims remain pending in the application: .

The Rejection Under 35 U.S.C. §112, second paragraph

The Examiner has rejected claim 21 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Examiner takes the position that the term "secondary component" of claim 21 is not understood and no proper antecedent basis is found in the descriptive portion of the specification.

Applicant respectfully directs the Examiner's attention to column 5, lines 30 -31 of the Blacket et al. (US Pat. No. 5,884,386). Applicant respectfully submits that the term is understood by one of ordinary skill in the art as demonstrated by its use in the prior art. Accordingly, Applicant respectfully submits that the Examiner's outstanding rejection may be properly withdrawn.

The Rejection Under 35 U.S.C. §102(b)

The Examiner has rejected claims 1 through 4, 8, 12, 13, 16 through 19, 46, 47, 51, and 52 under 35 U.S.C. §102(b) as being anticipated by Blacket et al.

Applicant has amended independent claims 1 and 46 and respectfully submits that the Examiner's outstanding rejection based on Blacket et al. may be properly withdrawn. Specifically, claim 1 has been amended to recite that the projectile is not in physical contact with the projectile firing device (as inferred from Figures 3 and 4) as the projectile forces at least a portion of the one or more sheets into the cavity. Similarly, claim 46 has been amended to recite that the deformable projectile is not in physical contact with the projectile firing device as the deformable projectile forces at least a portion of the metallic sheet into the cavity. These features are not present in Blacket et al. as that reference teaches and only teaches that the projectile firing device is in physical contact with the rivet or slug as the rivet or slug forces at least a portion of the one or more sheets into the cavity (see Figures 8 through 11 of Blacket). Accordingly, as Blacket et al. fails to teach each and every element of the invention as presently claimed, it cannot fairly be said to anticipate the present invention. Therefore, Applicant respectfully submits that the outstanding rejection may be properly withdrawn.

The Rejection Under 35 U.S.C. §103(a)

The Examiner has rejected claim 10 under 35 U.S.C §103(a) as being unpatentable over Blacket et al. in view of Temple. The Examiner takes the position that it would have been obvious to fire the firing pin of Blacket et al. by means of an explosive charge in view of the disclosure of Temple and that one would have been motivated to do this in order to provide a tool that is strong yet relatively light.

Applicant has amended claim 1 from which claim 10 depends. Applicant respectfully submits that the differences between Blacket et al. and the present invention

discussed above are applicable here and that Temple fails to cure the deficiencies of Blacket et al. to render the present invention an obvious variation of the prior art. Temple fails to teach or suggest a projectile which departs the projectile firing device so as to cause at least one sheet into a cavity. Accordingly, as the combination of references cited by the Examiner fails to teach each and every element of the present invention the combination cannot fairly be said to render the present invention an obvious variation of the prior art. Therefore, Applicant respectfully submits that the Examiner's outstanding rejection may be properly withdrawn.

The Examiner has rejected claims 15 and 54 under 35 U.S.C. §103(a) as being unpatentable over Blacket et al. in view of Stead. The Examiner takes the position that it would have been obvious to clamp one or more sheet materials by means of magnetic means in view of the disclosure of Stead and that one would have been motivated to do so in order to provide efficient use and operation for clamping the one or more sheets together.

Applicant has amended claim 1 from which claim 15 depends and has amended claim 46 from which claim 54 depends. Applicant respectfully submits that the differences between Blacket et al. and the present invention discussed above are applicable here and that Stead fails to cure the deficiencies of Blacket et al. to render the present invention an obvious variation of the prior art. Stead fails to teach or suggest a projectile which departs the projectile firing device so as to cause at least one sheet into a cavity. Accordingly, as the combination of references cited by the Examiner fails to teach each and every element of the present invention the combination cannot fairly be said to

render the present invention an obvious variation of the prior art. Therefore, Applicant respectfully submits that the Examiner's outstanding rejection may be properly withdrawn.

The Examiner has rejected claim 20 under 35 U.S.C. §103(a) as being unpatentable over Blacket et al. The Examiner takes the position that it would have been obvious to one of ordinary skill in the art to select a velocity that would accomplish the desired joining taking into account the materials used for the sheets and the projectile and the sheet thicknesses.

Applicant has amended claim 1 from which claim 20 depends. Applicant respectfully submits that the differences between Blacket et al. and the present invention discussed above are applicable here. Blacket et al. fails to teach or suggest a projectile which departs the projectile firing device so as to cause at least one sheet into a cavity. Accordingly, as the reference cited by the Examiner fails to teach each and every element of the present invention the reference cannot fairly be said to render the present invention an obvious variation of the prior art. Therefore, Applicant respectfully submits that the Examiner's outstanding rejection may be properly withdrawn.

CONCLUSION

In view of the foregoing amendment and accompanying remarks, the Applicant respectfully submits that the present application is properly in condition for allowance and may be passed to issuance upon payment of the appropriate fees.

Telephone inquiry to the undersigned in order to clarify or otherwise expedite prosecution of the subject application is respectfully encouraged.

Respectfully submitted,

GLENN DAEHN

Date: Dec. 15, 2003

By:



Michael Stonebrook
Registration No.: 53,851
Standley Law Group LLP
495 Metro Place South, Suite 210
Dublin, Ohio 43017-5319
Telephone: (614) 792-5555
Facsimile: (614) 792-5536